SHRI SURESH PRABHU: With your permission I will make a small point which I forget. Madam, many Members have suggested that polluters must pay. I definitely agree with that. But, we also feel that potential polluters also must pay now. The new activity which has started and which is likely to cause pollution, we intend to levy a cess on them too. We intend to create an environmental fund. If environment fund can become a reality, many of the concerns raised by the Members, we will be able to meet. Since our Finance Minister is also environmentally concerned, chaired a session of the cess meet. I am sure, he will definitely look into this. (*Interruptions*)

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): No more. I have to take up the Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1998.

THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) BILL, 1998

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): Madam, concerned by the rising trend in the illicit traffic in narcotic drugs and psychotropic substances which pose a serious threat to the health and welfare of human beings and recognising the need to strengthen national and international efforts towards combating the problem effectively, the Community of Nations concluded the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in the year 1988. India is a party to this Convention. Most of the obligations arising out of the said convention were taken care of by an amendment made to the Narcotic Drugs and Psychotropic Substances Act, 1985 in the year 1989. One of the objectives of the Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1998 is to take care of further obligations arising under the said Convention which could not be included in the amendment to the Act made in the year 1989. The obligations under the said Convention so included in the Bill now are, establishing jurisdiction over offences committed by citizens of India outside India, and by all persons on ships and air-crafts registered in India, conferment of legal authority to carry out 'Controlled Delivery', an investigative technique aimed at bringing to book all those who are involved in drug offences, criminalisation of certain activities relating to laundering of tainted proceeds derived from drug offences etc.

Our experience of a little over a decade in implementing the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985, various court rulings on the subject and the observations of the National Human Rights Commission had brought to the fore certain deficiencies in the Act which hamper our action against drug traffickers. The deficiencies noticed are lack of power to seize or freeze the illegally acquired property of offenders as soon as they are charged with an offence under the Act, to empower officers of the armed forces and paramilitary forces other than BSF to take action under the Act, absence of search and seizure powers under the Act in respect of precursors and essential chemicals which are used in the illegal manufacture of drugs and in respect of financial investigation for tracing, seizing and forfeiting illegally acquired property of drug offenders and absence of power with departmental officers to file appeals against the order of the Competent Authority in the matter of tracing, seizing and forfeiting of illegally acquired property of drug offenders etc. The Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1998 seeks to strengthen the Act by way of removing the deficiencies noticed so far.

On the other hand, the Narcotic Drugs and Psychotropic Substances Act prescribed for most of the offences a uniform sentence of minimum 10 years imprisonment which may extend up to 20

years. There has been a criticism against the Act that the punishments prescribed under the Act are harsh, disproportionate at times to the gravity of the offences invovled. There has also been a criticism that the strict bail provisions have further compounded the harshness of the Act. Madam, the Supreme Court has commented on this aspect of the Act. The general delay in trials and the strict bail provisions result in continuous incarceration of under-trials for a considerable period of time.

Recognising the need to rationalise the sentence structure, it is proposed to introduce the principle of grade punishment on the basis of the quantity of drugs involved in the offence. This would require, as in the laws of some other countries for instance, Australia, categorising quantity of drugs into three grades to small quantity, commercial quantity and quantity between small quantity and commercial quantity for the purpose of imposing sentence. The mild punishment for possession of small quantity of drugs which is now available only to those who possess the drugs for their own use is proposed to be made applicable for possession by all irrespective of the fact whether it is for own use or not.

As a measure of rationalisation of sentence structure, it is proposed to make applicable death penalty only in respect of those offenders with a previous conviction for commission of offences punishable with a minimum punishment of 10 years of rigorous imprisonment. In order to reduce the rigour of the strict bail provisions of the Act, it is proposed to invoke strict bail provision under Section 37 of the Act only in respect of persons who are charged with offences under the Act punishable with a minimum punishment of 10 years rigorous imprisonment.

Section 50 of the Act stipulates the conditions under which personal search of a person is to be carried out. In actual practice it has been found that the procedure given under Section 50 is unworkable because search has to be undertaken immediately otherwise, the suspect may dispose of any drug which he may have on his person. Therefore, it is proposed that when the officer duly authorised under Section 42 has reason to believe that it is not possible to take the person to be searched to the nearest gazetted officer or magistrate without the possibility of the person to be searched, parting with possession of any drug or controlled substance or article or document, he may, instead of taking such person to the nearest gazetted officer or magistrate, proceed to search the person as provided under Section 100, Cr. P.C. After the search is conducted, the officer shall record the reasons for such belief which necessitated such search and within a reasonable time send a copy thereof to his immediate official superior.

It is expected that the proposed changes while strengthening the enforcement efforts by government agencies will reduce the extraordinary harshness of the Act vis-a-vis small-time offenders. I request that this amendment Bill be considered by the house and passed.

Thank you, Madam.

The question was proposed.

SHRI MD. SALIM (West Bengal): Madam, before we proceed further I would like to say that the statement says that this Bill is for strengthening the various provisions of the Act. If we go in detail, clause by clause, we will find that it is not so innocuous a Bill. Some substantive changes are sought to be made through this amendment. So, I request you, Madam, to take a decision so that it can be sent to the Standing Committee on Finance. The Standing Committee can examine it in detail. Normally, such Bills are referred to the Standing Committees. Madam, so many drastic changes are sought to be made and so many clauses are there. Madam, you have also moved certain

amendments. There is a series of changes. I would like to request you to refer it to the Standing Committee. I think there is no urgency in this matter because it is not an Ordinance. So a timeframe is also not there. Madam, you should take a view in this regard. The Standing Committee should examine it. After that we can pass it.

SHRI PRANAB MUKHERJEE (West Bengal): Madam, if he feels that there are some international obligations which are to be fulfilled, then in fact, it is an urgency. But, I am not quite sure whether he will have adequate time to get it passed in the Lok Sabha also. Therefore, keeping in view all this, the suggestion given by the hon. Member should be considered. I leave it to him. Now it is your judgement because we have decided to pass it even sitting late till night. So, you do not think that we want to defer it. But, if there is no urgency I also checkedup from my colleague, Justice Misra, from the Supreme Court's point of view which you have taken care of — it could be scrutinised. There is no urgency because the Supreme Court has said something and that is why it is to be implemented. But, I go by your judgement and assessment of the situation. If you feel there is urgency that the Bill is to be passed, we are prepared to do it. And if you feel that it can quickly be examined by the Standing Committee attached to your Ministry, that can also be considered. I go by your advice.

श्री बालकवि बैरागी (मध्य प्रदेश): मैडम, मेरी एक रिक्वेस्ट बहुत महत्वपूर्ण है। मैं सिन्हा साहब से प्रार्थना करता हूं कि जरा मुझे सुनलें। मैडम, पोजीशन यह है कि सदन में मैं अकेला एक सदस्य हूं जिसके रहने के क्षेत्र में भारतवर्ष की सबसे ज्यादा अफीम पैदा होती है। मन्दसौर-नीमच जिला जहां 30-35 हजार से लेकर 67 हजार तक पट्टेदार वहां पर हैं। आप जो अमेंडमेंट ला रहे हैं, मैडम, जो अमेंडमेंट आ रहा है वह सन् 1985 वाले हमारे कानून में आ रहा है। 1985 से लेकर 1996 तक इसमें कोई छेड़छाड़ नहीं हुई। 1996 से 1998 के बीच में उस सारे क्षेत्र में जो सफोकेशन हुआ, जो विस्फोट हुआ, जो घटनाएं घटी, नारकोटिक्स वालों ने जो वहां पर अत्याचार किए उस सबके कारण आपको इस सदन में यह लाना पड़ा है। मूल बात एक है कि आप यह मानकर बिल ला रहे हैं कि यह मामला सरकार और तस्करों के बीच का है। लेकिन इसमें एक तीसरा आयात और है मैडम, वह है मन्दसौर जिले का नहीं पूरे देश का वह किसान जो अफीम पैदा करता है उस किसान के बारे में कुछ नहीं सोचा गया। मेरी प्रार्थना है जैसा प्रणवदा जी ने कहा है, जैसा हमारे भाई ने कहा है आप इस पर विचार करने से पहले सोचें। आपके पास में 7 संसद सदस्य ऐसे है जिनके क्षेत्रों में यह पैदा होता है। उन सातों के नाम बतलाता हूं मैं आपको। नीमच... **(व्यवधान)**

प्रो॰ विजय कुमार मल्होत्रा: उससे क्या फायदा।

उपसभाध्यक्ष (कुमारी सरोज खापर्डे): आप नाम मत बताइए , आप जो कहना चाहते हैं वह कहिए।

श्री बालकवि बैरागी: मैं कहना यह चाहता हूं कि आपके पास में खाली आप और आपके नाकोटिक्स के अधिकारी या आपका सचिवालय बैठकर यह अमेंडमेंट तैयार करे उससे इस देश में यह काम चलने वाला नहीं है। आपको इसमें नीमच वालों से पूछना पड़ेगा, मन्दसौर वालों से पूछना पड़ेगा, चित्तौड़ वालों से पूछना पड़ेगा, कोटा वालों से पूछना पड़ेगा, झालावाड़ वालों से पूछना पड़ेगा, रतलाम और उज्जैन वालों से पूछना पड़ेगा। वहां से संसद सदस्यों को कांफिडेंस में लेकर यदि आप पोलिसी बनाएंगे तो किसान आपको सहयोग करेगा, अन्यथा वहां पर यह हालत हो रही है कि आपका एक आफिसर जाता है और किसान को पकड़ कर 8-18 में बंद कर देता है और आपके इंफार्मर को कहा जाता है कि तू-दूसरे का नाम बतलादे और फिर उसको भी बंद कर दिया जाता है। मैं बहुत गंभीरता और संजीदगी से निवेदन कर रहा हूं कि माननीया मैडम, मेरा यह आग्रह और निवेदन है कि आज इस कानून के अन्तर्गत 270 किसान मन्दसौर जिले की जेलों में बंद पडें है।

उपसभाध्यक्ष (कुमारी सरोज खापर्डे) बैरागी जी, आप जब इस पर बोलेंगे तभी उस पर आप अपने विचार रखिए न।

श्री बालकवि बैरागी: मेरा यह निवेदन है, बेहतर यह है कि जैसा प्रणवदा जी ने और भाई साहब ने कहा है आप इसे स्टेंडिंग कमेटी को भेज दें या फिर इसका कुछ न कुछ ऐसा निदान निकाले जिससे किसान भी इसमें शामिल हो सके वरना सबसे बड़े सफरर किसान है, सबसे बड़े प्रोड्यूसर किसान है।

उपसभाध्यक्ष (कुमारी सरोज खापर्डे): जब आपकी टर्न आएगी तब आप अपने विचार व्यक्त करिएगा।

प्रो॰ रामगोपाल यादव: मैडम, स्टेंडिंग कमेटी से बेहतर तो सलेक्ट कमेटी को भेज दिया जाए।

SHRI JOHN F. FERNANDES (Goa): Madam, I feel, substantial issues are involved in this. Now, we are going to reduce the deterrent punishment involved in the Bill just because of some observations made by some hon. courts. There are countries which are going in for more deterrent sentences for these offences. This problem is very much prone in a State Like Goa. I feel, if you are going to dilute this legislation which has already been passed by the Parliament, then we have to apply our mind. For that, I think, it should be referred either to a Select Committee or the Standing Committee where we can interact with the other people and other communities which are involved, rather than just go by an observation of a court and come to the Parliament and say, "Just reduce it." I do not think that it should be passed in a hurry.

श्री बालकवि बैरागी: अगर आपने इसमें किसान को शामिल नहीं किया तो सही बात नहीं होगी। इसमें किसान को शामिल करना जरूरी है।

SHRI YASHWANT SINHA: (THE MINISTER FINANCE) Madam, I will be quite candid about this matter with the House. Mr. Pranab Mukherjee asked me whether there is a time-frame or there is a deadline which we have to maintain. Quite frankly, there is no deadline. This international convention was adopted in 1988 and a certain number of amendments in the Act were made in 1989. Some of the obligations, as I just said, remained unfulfilled and we are trying to fulfil them now. In the meanwhile, Madam, as I said, there have been a series of court judgments, judgments by the Supreme Court commenting on the nature of this Act.

Thirdly, there have been observations, as I said, by the Human Rights Commission of this country. We had, after we received all these judgements, requested the Department, the then Department of Welfare which is now Department of Social Justice and Empowerment, to appoint an Expert Committee. And an expert Committee was appointed. This Expert Committee made certain recommendations. Those recommendations have been examined in depth by the Ministry. It is after a very careful consideration that we have brought this Amendment Bill before the House. Now, I would like to completely disabuse the mind of the hon. Members that we are going out of our way to dilute the provisions. In fact, it is our belief that by in terms of quantity we shall be dealing, maybe not so harshly as the Court has commented with the small-time offenders. It will give us more powers to deal with the real traffickers in drug and really book them and give them punishment. That is the intention. I can describe, when we discuss the Bill, the whole lot of measures which we are taking in order to make the present Act more effective. But, there is no time, there is no deadline. The only asurance which I would like to give to the hon. House is, — because Mr. Pranab Mukherjee also raised this point — that if the Rajya Sabha were to pass this Bill today, I am confident that within the time at our disposal it will be possible for the Lok Sabha to consider it and pass it also. I believe, Madam, that the Business Advisory Committee of this Hosue must have considered the matter and decided to bring this Bill before the House. I leave the Judgement in regard to whether the House should consider it or not. But, on my part, I will be happy. I will be a very happy person indeed if the House were to consider it in the time that we have set-apart for it.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Minister, you also had written a letter to the hon. Deputy Chairman and the letter was processed ultimately. The chairman also had written something on this letter. I

think on the same issue Mr. Malhotra would like to say something as to what happened later that day.

प्रो० विजय कुमार मल्होत्रा: (दिल्ली): उपसभाध्यक्ष महोदया, मैं केवल इतनी बात कहना चाहता था कि यह ठीक है कि बिजनेस एडवाइज़री कमेटी ने यह तय किया था कि इसको आज दो घंटे लगा कर पास कर दिया जाए पर इसमें तीन-चार बातें मंत्री महोदय ने कहीं। ह्यूमन राइट्स कमशीन का जिक्र किया है, कोर्ट्स का ज़िक्र किया है और इंटरनेशनल कन्वेन्शन का ज़िक्र किया है। नॉर्मल कन्वेन्शन यह है कि कोई भी बिल आम तौर पर स्टैंडिंग कमेटी को भेजा जाता हैं और स्टैंडिंग कमेटी, हाऊस की कमेटी इसको इन डेप्थ स्टड़ी कर लेती है। अगर सचमुच में कोई टाईम कंस्ट्रेंट नहीं है और दो महीने बाद जो सेशन होगा, उसमें अगर यह आ जाता है और इस बीच में कोई ऐसी स्थिति पैदा होने वाली नहीं है जिसके कारण कठिनाई हो तो स्टैंडिंग कमेटी की कन्वेन्शन को अगर रखें तो मुझे लगता है कि कोई आपत्ति की बात नहीं है। यह तो ज्यादा अच्छा होगा कि वहां पर इन डेप्थ स्टडी हो जाएगी। अगर मिनिस्टर साहब ने कहा है कि ऐसी कोई कठिनाई नहीं है और कोई टाईम कंस्ट्रेंट नहीं है तो फिर बिल आज पास हो या दो महीने बाद पास हो, इस बीच में कोई बहुत बड़ा अंतर नहीं पड़ने वाला है। हाऊस की जैसी मरज़ी हो कि स्टैंडिंग कमेटी में चला जाए तो हमें कोई ऐतराज़ नहीं है।

SHRI PRANAB MUKHERJEE: Madam, you take the sense of the House.

SHRI YASHWANT SINHA: As I said, I will be quite candid. We have no deadline today. I will be happy if the Hosue could consider and pass it. Because I do not think.... *(Interruption)*

SHRI PRANAB MUKHERJEE: When you say that, then we will have to pass it.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): I would like to read out the last paragraph of the letter of the Finance Minister, written by him to the Deputy Chairman. It says: The Proposed amendment is also necessitated to take care of certain obligations of the Government of India arising under the U.N. Convention against illicit traffic in narcotic drugs and psychotropic susbstances, to which India is a party.

It is necessary that the Government honours the commitment made by it, by becoming a party to the said important Convention, at the earliest.

SHRI PRANAB MUKHERJEE: That is the whole purpose of bringing forward this Bill.

SHRI JOHN F. FERNANDES: There is only one clause of jurisdiction. The other matters are different.

SHRI M.D. SALIM: Madm, only two sections, only two clauses, deal with the UN Convention of 1988. When the provisions of the UN Convention of 1988 have not been implemented up to 1998, if we postpone the consideration of the Bill by another two months, heavens would not fall. This is one point. The second point is that there is no time-frame. Of course, the commitment is there. But there is no deadline; there is no time-frame. The court has also not said: 'You do it; you implement it by this time'. The Minister also has said so, Thirdly, after ten years, a Special Session of the UN General Assembly was convened and some more recommendations are there. There are Resolutions. Then, the UN Drug Control Convention's recommendations are there. Once when we implement the UN Convention of 1988, we can take care of the latest developments and some more items can also be included so that we need not go in for another amendment within another year.

SHRI NILOTPAL BASU (West Bengal): Madam, I would request the hon. Minister to consider this point. Generally, it has been our experience that through involvement of the Standing Committee, we come up with a better piece of legislation. Since there is no time-frame involved, perhaps, the hon. Minister could be equally happy in getting it processed through the Standing Committee.

SHRI YASHWANT SINHA: As far as the Government is concerned, the Government is always happier getting a Bill passed, than its being postponed.

SHRI PRANAB MUKHERJEE: That is why I said: 'I leave it to you'.

SHRI M.D. SLIM: You can be equally happy if we refer this Bill to the Standing Committee.

SHRI PRANAB MUKHERJEE: Madam, you can take the sense of the House.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): it is between the House and the Minister. It is for the House to decide.

SHRI JOHN F. FERNANDES: Mr. Malhotra is of the same opinion.

SHRI S. VIDUTHALAI VIRUMBI: Madam, if the hon. Minister does not have any reservations, we can send it to the Standing Committee. If there is no problem for the Government, we can refer it to the Standing Committee.

उपसभाध्यक्ष (कुमारी सरोज खापर्डे): सदन जो भी डिसाइड करेगा, उससे मुझे कोई ऐतराज नहीं है।

श्री मोहम्मद सलीम: मंत्री जी खुद नहीं कह सकते हैं कि बिल को रैफर कर दो मंत्री जी का काम ही पायलट करके इसको पास कराना है.

†[شری محمد سلیم : منتری جی خود نہیں کہہ سکتے ہیں کہ بل کو ریفر کر دو۔ منتری جی کا کام ہی پائلٹ کرکے اسکو پاس کرنا ہے۔]

SHRI DIPANKAR MUKHERJEE: The very important point is that Mr. Malhotra is saying that.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Shirodkar, do you want to say something on this?

†[ ]Transilteration in Arabic Script

SHRI ADHIK SHIRODKAR (Maharastra): Madam, I have not been practising in this field, for personal reasons. But I have always felt that this law requires extensive study. Such an extensive study, with all humility, I would say, is possible only in the Standing Committee.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Mukherjee, would you like to say something on this?

SHRI PRANAB MUKHERJEE: I think, by this time, the sense of the House is quite clear. As the Government has no problem, we can refer it to the Standing Committee. I started my observations by saying that if the Government felt that there was an urgency, we could sit late and pass the Bill. However, since the Government has no objection, we can send it to the Standing Committee, giving a time-frame to the Committee to complete the exercise so that the Government can, at the earliest opportunity, bring forward this Bill. If the Government agrees, I think, we can do that. We will be guided by yur advice, Mr. Minister.

SHRI YASHWANT SINHA: Madam, I would be as responsive as possible. I have to tell the House candidly. I notice, the sense of the House is that it should go to the Standing Committee. As I said, we have no deadline to meet in regard to this Bill. It is not that if this Bill is not passed in this Session, we will be violating any international convention. There was an urgency in the sense that we wanted to fulfil a commitment which had remained unfulfilled all these years. This was the urgency. The urgency was that we wanted to respect the Supreme Court's observations and the National Human Rights Commission's observations. But if the House so decides, I am agreeable. I am in the hands of the House.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): I could see from the observations made by Members from both sides of the House that they want

this Bill to be referred to the Standing Committee. I would convey this to the hon. Chairman.

SHRI PRANAB MUKHERJEE: Of course, the hon. Chairman has to take a decision on this. You can convey the sense of the House to the hon. Chairman. Ultimately, the decision has to be taken by him.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): The sense of the House would be conveyed to the hon. Chairman that the Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1997, should be referred to the Standing Committee so that it could be considered in detail by the Standing Committee.

SHRI YASHWANT SINHA: Providing a time-prame, as has been suggested by Mr. Pranab Mukherjee.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Providing a time-frame, as you said.

Scretary General will inform the hon. Chairman, and the Bill will be sent to the Standing Committee, subject to his approval, of course.

THE NAVY (AMENDMENT) Bill, 1997

THE VICE-CHAIRMN (MISS SAROJ KHAPARDE): Now we will take up the Navy (Amendment) Bill, 1997. Mr. George Fernandes.

THE MINISTER OF DEFENCE (SHRI GEORGE FERNANDES): Madam, I beg to move:

> "That the Bill further to amend the Navy Act, 1957, be taken into consideration."

This Bill was introduced in Rajya Sabha in the first instance on the 12th of March, 1997. It was referred to the Standing Committee on Defence on the 17th of March, 1997. The Standing Committee gave its Report on the 31st of July, 1997. The concluding para of the Report of the Standing Committee is as follows:

> "The Committee adopt the Navy (Amendment) Bill, 1997, without any recommendation for amendment."

I am assuming, Madam Chairperson, that this decision of the Standing Committee must be because this Bill deals with some internal administrative matters of the Navy and some minor amendments. One of the amendments deals with the definition of the world "Officer". Five amendments deal with offences committed by the Naval personnel, their prosecution and punishment. What is sought to be done here is to bring these matters in line with the Code of Criminal Procedure, 1973.

There is another clause which seeks to increase the payment from Rs. 10,000/- to Rs. 1 lakh to the entitled person, the estate of the deceased officer or sailor without requiring that person to produce any conclusive evidence such as probates of will, succession certificate etc., with the sole purpose of providing speedy relief in the event of an untimely death of an individual.

The last amendment which this Bill deals, pertains to repealing one section of the Act which still has a reference to the personnel ofthe Royal Navy. That should have been eliminatd from this Act a long time back.

So, Madam Chairperson, as I said, this is a Bill which deals with some aspects of the rules pertaining to the Navel personnel. Since it is being commended by the Standing Committee on Defence without suggesting any kind of amendment, I request the House to adopt this BIll.

The question was proposed.

THE VICE CHAIRMAN (MISS SAROJ KHAPARDE): There is one amendment by Shri S. Ramachandran Pillai for reference of the Bill to the Joint Committee of the Houses.